

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q76973
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____	Application Number 10/647,255	Filed August 26, 2003
	Confirmation Number: 3044 First Named Inventor Gerard VERGNAUD	
Signature Typed or printed name	Art Unit 2445	Examiner Joshua JOO

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

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I am the

<input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. <input type="checkbox"/> Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number 52,778 <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<hr/> / Diallo T. Crenshaw 52,778 / <hr/> Signature Diallo T. Crenshaw <hr/> Typed or printed name (202) 293-7060 <hr/> Telephone number February 18, 2011 <hr/> Date
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

<input checked="" type="checkbox"/> *Total of <u> 1 </u> form is submitted.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q76973

Gerard VERGNAUD, et al.

Appln. No.: 10/647,255

Group Art Unit: 2445

Confirmation No.: 3044

Examiner: Joshua JOO

Filed: August 26, 2003

For: A METHOD AND A SERVER FOR ALLOCATING LOCAL AREA NETWORK
RESOURCES TO A TERMINAL ACCORDING TO THE TYPE OF TERMINAL

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 18, 2010, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1-9, 11-15, 17-35, 37-41, 43 and 44 are all the claims pending in the application.

Claims 1-9, 11-14, 17, 21-35, 37-40 and 43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen US Publication No. 2002/0075844 (Hagen hereinafter), in view of Yamaguchi, US Publication No. 2002/0178365 (Yamaguchi hereinafter) and Brewer et al. (US Patent No. 7,002,980).

Claims 15, 18 and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, Brewer and Immonen et al. (US Patent Application Publication No. 2002/0132611 (Immonen) hereinafter).

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, Brewer and Sisodia et al. (US Patent Application Publication No. 2003/0165128 (Sisodia hereinafter)).

Claim 44 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, Brewer, and Bichot et al. (US Patent Application Publication No. 2003/0214929 (Bichot hereinafter)).

Claim Rejections - 35 U.S.C. § 103

Claims 1-9, 11-14, 17, 21-35, 37-40, and 43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, and further in view of Brewer. Applicants submit the following in traversal.

Claim 1

Claims claim 1 recites, in part, “wherein said control module allocates at least two priority levels to the terminals for said allocation of resources of the local area network according to whether the terminals are classified in said first group or said second group and automatically modifies an allocated priority level as a function of the available resources of said local area network.”

Hagen and Yamaguchi fail to disclose or suggest the above-quoted claim features.

The Examiner applies Brewer to allegedly satisfy the above-quoted feature.

Applicants submit that even if, assuming *arguendo*, the updating service plan of Hagen corresponds to the claimed “modif[ying] an allocated priority level”, Hagen fails to disclose or suggest “wherein said control module... automatically modifies an allocated priority level as a function of the available resources of said local area network”.

Instead, Hagen requires a subscriber to manually upgrade the service plan, for example, from a non-priority plan to a priority plan (see paragraph [0183], lines 22-25 of Hagen).

Additionally, Applicants submit that one of ordinary skill in the art would understand that a bandwidth is not a priority level and therefore, altering bandwidth allocation disclosed in paragraph [0112] of Hagen does not correspond to the claimed “modif[ying] an allocated priority level.”

The Examiner now applies Brewer to allegedly satisfy the above-quoted features. While Brewer does discuss priority levels, Brewer only discusses priority levels with respect to bandwidths that are pre-allocated to specific QOS levels. Again, even if *arguendo* Brewer discuss adjusting bandwidth in the invention thereof, there is no teaching or reasonable suggestion of automatically modifying an allocated priority level as a function of the available resources of said local area network. As submitted previously, a bandwidth is NOT a priority level.

In view of the above, Applicants submit that claim 1 is patentably distinguishable over the applied references.

For reasons analogous to those submitted above with respect to claim 1, Applicants submit that independent claim 28 is also patentable.

Claims 2-9, 11-14, 17, 21-27, 29-35, 37-40 and 43, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 15, 18, and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, and Brewer, and further in view of Immonen. Applicants submit the following in traversal.

Immonen does not make up for the above noted deficiencies of Hagen, Brewer and Yamaguchi with respect to independent claims 1 and 8. Accordingly, claims 15, 18, and 41, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, Brewer, in view of Sisodia. Applicants submit the following in traversal.

Sisodia does not make up for the above noted deficiencies of Hagen, Yamaguchi, and Brewer with respect to independent claim 1. Accordingly, claims 19 and 20, which depend from claim 1, are patentable at least by virtue of their dependencies.

Claim 44 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, Brewer, in view of Bichot. Applicants submit the following in traversal.

Bichot does not make up for the above noted deficiencies of Hagen, Yamaguchi, and Brewer with respect to independent claim 28. Accordingly, claim 44, which indirectly depends from claim 28, is patentable at least by virtue of its dependency.

Respectfully submitted,

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